

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON  
Jenny M. Morf, OSB No. 98298  
Assistant County Attorney  
501 S.E. Hawthorne Blvd., Suite 500  
Portland, Oregon 97214  
Telephone: (503) 988-3138  
Facsimile: (503) 988-3377  
Internet email Address: [jenny.m.morf@co.multnomah.or.us](mailto:jenny.m.morf@co.multnomah.or.us)  
Of Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

**MARY SHULTZ,**

Plaintiff,

v.

**MULTNOMAH COUNTY**, a home rule county of the State of Oregon, and **CECILIA JOHNSON**, individually, and in her official capacity as Director of the Department of Community Services,

Defendants.

Civil No. \_\_\_\_\_

**NOTICE OF REMOVAL**

TO: Judges of the United States District Court for the District of Oregon; Administrator of the Circuit Court of the State of Oregon for the County of Multnomah; Mary Shultz, plaintiff and her attorney, Richard C. Busse

TO THE CLERK OF THE COURT:

PLEASE TAKE NOTICE that, pursuant to 28 USC §§1441 and 1446, Defendants Multnomah County and Cecilia Johnson hereby remove to this Court the case now pending in Multnomah County Circuit Court as *Mary Shultz v. Multnomah County and Cecilia Johnson*, Case No. 0806-08892. All defendants join in this removal.

As grounds for removal, Defendants Multnomah County and Cecilia Johnson respectfully give Notice of Removal as follows:

NOTICE OF REMOVAL IS TIMELY AND ALL DEFENDANTS JOIN IN THE REMOVAL

1. On or about June 20, 2008, this action was commenced against defendants in the Circuit Court of the State of Oregon for the County of Multnomah, entitled Mary Shultz v. Multnomah County and Cecilia Johnson, Case No. 0806-08892. Defendant Multnomah County was served with the Summons, Complaint and First Request for Production of Documents on June 27, 2008. Defendant Cecilia Johnson was served with the Summons, Complaint and First Request for Production of Documents on July 7, 2008. Pursuant to 28 USC § 1446(a), a copy of all process, pleadings, and orders served on defendants are attached as Exhibit "A".

2. This Notice of Removal is timely filed under 28 USC § 1446 (b), which provides that a notice of removal must be filed within 30 days after a defendant receives, by service or otherwise, the initial pleading.

3. All defendants join in this removal. Copies of all process, pleadings and orders are included in Exhibit A.

4. No further proceedings have been had in the Circuit Court of Multnomah County, Oregon, as of the date of filing of this removal.

REMOVAL TO THIS DISTRICT IS PROPER

5. Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removal of the above-captioned state court action to this court is appropriate.

6. Pursuant to 28 USC § 1441(a), removal is made to this Court as the district and division embracing the place where the state action is pending.

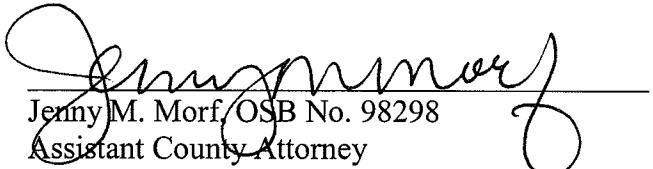
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7. The defendants are providing to the plaintiff written notice of the filing of this Notice of Removal. Furthermore, the defendants are filing a copy of this Notice of Removal with the Clerk of the Circuit Court of Multnomah County, Oregon, where the action is currently pending.

DATED this 24th day of July, 2008.

Respectfully submitted,

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Jenny M. Morf, OSB No. 98298  
Assistant County Attorney  
Of Attorneys for Defendants

Date: 07/02/2008

To: MULTNOMAH COUNTY

Attached is a true copy of the:

Summons; Complaint and Plaintiff's First Request for Production of Documents

RECEIVED  
JUL 03 2008

COUNTY COUNSEL FOR  
MULTNOMAH COUNTY, OR

Left With: Jane Hadley, Office Assistant

Address: 501 S.E. Hawthorne Blvd., Suite 500, Portland, OR 97214

Date Served: 06/27/2008

Time Served: 3:25 PM



176300

## In the Circuit Court of the State of Oregon

For the County of MultnomahMARY SHULTZ,

vs.

MULTNOMAH COUNTY, a home rule county of the State of Oregon, and CECILIA JOHNSON, individually, and in her official capacity as Director of the Department of Community Services,

Plaintiff(s),

Case No. \_\_\_\_\_

**0806-08892**

, Defendant(s).

SUMMONS

To AGNES SOWLE  
County Attorney for Multnomah County  
501 SE Hawthorne Blvd., Suite 500  
Portland, OR 97214

Defendant \_\_\_\_\_

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

**NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!**

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal document called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

SIGNATURE OF  ATTORNEY  AUTHOR FOR PLAINTIFF**Richard C. Busse, OSB #74050**

ATTORNEY'S / AUTHOR'S NAME (TYPED OR PRINTED) BAR NO. (IF ANY)

**621 S.W. Morrison Street, Suite 521**

ADDRESS

**Portland, Oregon 97205 (503) 248-0504**

CITY STATE ZIP PHONE

**(503)248-2131 rbusse@busseandhunt.com**

FAX (IF ANY) ATTORNEY'S E-MAIL ADDRESS (IF ANY)

TRIAL ATTORNEY IF OTHER THAN ABOVE (TYPED OR PRINTED) BAR NO.

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

ATTORNEY(S) FOR PLAINTIFF(S)

JUN 20 2008

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

3

4

5 MARY SHULTZ,

6 Plaintiff;

7

8 v.

9 MULTNOMAH COUNTY, a home rule  
10 county of the State of Oregon, and CECILIA  
11 JOHNSON, individually, and in her official  
capacity as Director of the Department of  
Community Services,

12 Defendants.

13

14 Plaintiff alleges:

15

**FIRST CLAIM FOR RELIEF**

16

(42 U.S.C. § 1983)

17

1.

18

Plaintiff is a resident and citizen of the State of Oregon.

19

20

Defendant Multnomah County ("County") is a home rule county of the State of Oregon. At all material times said Defendant acted through agents and employees, including Defendant Johnson, that acted within the course and scope of employment for Defendant County, and under color of state law. Defendant Cecilia Johnson ("Johnson") was at all material times Director of the Department of Community Services for Defendant County, and

Page 1 - COMPLAINT

BUSSE & HUNT  
Attorneys at Law  
521 AMERICAN BANK BUILDING  
621 S.W. MORRISON STREET  
PORTLAND, OREGON 97205

**Exhibit A**  
**Page 3 of 14**

acted under color of state law.

3.

Plaintiff was employed by Defendant County and served as its Assistant Director of Elections from January 28, 2002 until her termination effective February 15, 2008.

4

Prior to her termination Plaintiff advocated for the holding of lawful elections, and compliance with election laws, regulations and directives from Oregon's Secretary of State, including with respect to compliance with the Help America Vote Act, and the County's obligation under the Act to provide outreach to voters with disabilities; objected that Defendant Johnson's actions and directives would compromise the ability of the County to comply with those laws, regulations and/or directives and instructions; and/or warned that Defendant Johnson's actions and directives might well compromise the County's ability to service all voters, lead to litigation, and/or result in a waste of tax dollars; and in so doing exercised her First Amendment free speech rights to express her beliefs about matters of public concern.

5

Defendants terminated Plaintiff in substantial part in retaliation for exercising her First Amendment Rights as alleged in Paragraph 4 above, and/or for her association with others who had engaged in substantially similar protected activity.

6.

As a result of that termination Plaintiff suffered emotional distress and injury to reputation, all to her noneconomic damage in the sum of \$500,000.

1

7.

2

As a further result of said termination Plaintiff has suffered and will suffer economic

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loss in an amount to be proven at trial, which loss is alleged to be approximately \$500,000.

4

8.

5

Defendant Johnson's acts were wanton and wilful and said Defendant should be

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assessed punitive damages in the sum of \$500,000 each.

7

9.

8

Plaintiff is entitled to reasonable costs and attorneys' fees pursuant to 42 U.S.C. §

9

1988.

10

11

## SECOND CLAIM FOR RELIEF

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13

(Wrongful Discharge)

14

10.

15

Plaintiff realleges paragraphs 1 through 7.

16

11.

17

18

Defendants received timely actual notice of this claim by virtue of its filing within

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180 days of the act complained of in this claim for relief, and/or by virtue of their receipt of a

20

timely tort claims notice.

21

12.

22

23

Plaintiff was terminated in retaliation for her pursuit of an important employee related

24

right and/or her pursuit of a public duty, to wit, to engage in the conduct alleged in paragraph

25

4.

26

////

### THIRD CLAIM FOR RELIEF

(Whistleblowing Law - ORS 659A.200, *et. seq.*)

13.

Plaintiff realleges paragraphs 1 through 7, and 11.

14.

Plaintiff is entitled to an award of attorneys' and expert witness fees pursuant to ORS 385 and ORS 20.107.

WHEREFORE, Plaintiff prays for judgment as alleged in each claim stated above.

DATED this 20th day of June, 2008.

Respectfully submitted,

BUSSE & HUNT

RICHARD C. BUSSE, OSB #74050

Telephone: (503) 248-0504

Facsimile: (503) 248-2131

[rhusse@busseandhunt.com](mailto:rhusse@busseandhunt.com)

Of Attorneys for Plaintiff Mary Shultz

**TRIAL ATTORNEY:**

RICHARD C. BUSSE, OSB #74050

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26

Page 4 - COMPLAINT

**BUSSE & HUNT**  
*Attorneys at Law*  
521 AMERICAN BANK BUILDING  
621 S.W. MORRISON STREET  
PORTLAND, OREGON 97205

**Exhibit A**  
**Page 6 of 14**

1

2

3 IN THE CIRCUIT COURT OF THE STATE OF OREGON

4

5 FOR THE COUNTY OF MULTNOMAH

6

7 MARY SHULTZ,

8

9 Plaintiff,

10

11 v.

12

13 MULTNOMAH COUNTY, a home rule  
14 county of the State of Oregon, and CECILIA  
15 JOHNSON, individually, and in her official  
16 capacity as Director of the Department of  
17 Community Services,

18

19 Defendants.

20

21 **To: Defendants and Their Attorneys:**

22

23 Pursuant to ORCP 36B and ORCP 43, Plaintiff requests that Defendants produce the  
24 documents and tangible things described below for inspection and copying:

25

26 **DEFINITIONS**

27

28

29 A. As used herein, "document(s)" refers to original papers, tapes, disks, or other  
30 substances on which communications, data, or information is recorded or stored, whether  
31 made by manual, mechanical, photographic or electronic process. This definition includes,  
32 but is not limited to, all drafts or superseded revisions of each document(s), and e-mail  
33 messages, and backup tapes and deleted records of e-mail messages.

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36

37 B. As used herein, "document(s)" includes, but is not limited to: letters,  
38 memoranda, notes, papers of any kind or character, pamphlets, brochures, books, ledgers,  
39

1 reports, receipts, invoices, bills, checks, purchase orders, contracts, agreements, evidence of  
2 indebtedness, schedules, calendars, diaries, minutes of meetings, and computer input or  
3 printouts.

4 C. As used herein, and unless otherwise specifically stated herein, "Defendants"  
5 includes, but is not limited to: Defendant **Multnomah County** and Defendant **Cecilia**  
6 **Johnson**, and all parent corporations and successors in interest of Defendants, and any and  
7 all present or former officers, directors, agents, employees, and all other persons, firms and  
8 corporations, acting or purporting to act on behalf of Defendants.

10 TIME AND PLACE

11 The documents and tangible things requested herein shall be produced within forty-  
12 five (45) days of service of this request at Busse & Hunt, 521 American Bank Building, 621  
13 SW Morrison Street, Portland, Oregon 97205, or at such other time and place as may be  
14 agreed upon by the parties in the interim.

16 DOCUMENTS AND TANGIBLE THINGS REQUESTED

17 **REQUEST NO. 1:** Plaintiff's personnel file or files wherever and by whomever  
18 maintained.

20 **REQUEST NO. 2:** Any documents pertaining to Plaintiff's employment,  
21 performance, complaints, letters, and/or termination whether or not contained in a personnel  
22 file, including, but not limited to, any e-mail, note, memorandum or file, and any documents  
23 concerning any praise of or complaint about Plaintiff's performance.

25 **REQUEST NO. 3:** Any documents, notes, memos, reports or witness statements  
26 relative to any discussion, inquiry, interview and/or investigation conducted concerning

1 Plaintiff, any complaint made by Plaintiff, or Plaintiff's work performance.

2 **REQUEST NO. 4:** Any work rules, audit or performance standards which applied  
3 and/or related to Plaintiff and/or the elections office at any time during employment.

4 **REQUEST NO. 5:** Any training materials which were supplied to Plaintiff, or to  
5 Plaintiff's supervisor as to the training Plaintiff should receive or the counseling or corrective  
6 action which should be given in the event of any perceived deficiency in Plaintiff's  
7 performance.

8 **REQUEST NO. 6:** Any personnel rules or regulations that applied to Plaintiff,  
9 whether given to Plaintiff directly, or given to Plaintiff's supervisor or manager to apply.

10 **REQUEST NO. 7:** Any employee handbook or manual which was given to  
11 Plaintiff at any time during employment, including any revisions thereto.

12 **REQUEST NO. 8:** Any record concerning the amount of salary and fringe benefits  
13 Plaintiff was to receive any time during employment.

14 **REQUEST NO. 9:** Any documents Defendants believe relate to any asserted poor  
15 performance by Plaintiff.

16 **REQUEST NO. 10:** Any documents concerning Defendants' efforts to comply with  
17 the Help America Vote Act of 2002.

18 **REQUEST NO. 11:** Any documents concerning any expression of concern, by  
19 Plaintiff and/or others who were employed by and/or were under contract with Defendant  
20 County's elections office, as to whether Defendant County was in compliance with the Help  
21 America Vote Act, and/or had an adequate budget to be able to conduct lawful elections,  
22 and/or was able to serve the voters of Multnomah County, and/or concerning the way the  
23  
24  
25  
26

1 elections office was being operated in any other way in 2006, 2007, or 2008.

2 **REQUEST NO. 12:** Any documents pertaining to any efforts to comply with any  
3 auditor's recommendation contained in the June 2007 audit of Defendant County's election  
4 office.

5 **REQUEST NO. 13:** Any documents concerning any meeting, discussion or  
6 communication concerning what action should be taken to comply with the June 2007 audit  
7 of Defendant County's election office.

8 **REQUEST NO. 14:** Any document pertaining to any discussion and/or  
9 communication concerning abolishing Plaintiff's position and/or terminating Plaintiff.

10 **REQUEST NO. 15:** Any documents concerning Defendant Johnson's decision on  
11 or about January 24, 2008 to allow the Voter Assistance Team to contact all former care  
12 facility clients, but not any new care facilities, for the May 2008 Primary election.

13 **REQUEST NO. 16:** Any and all documents concerning projected outreach demands  
14 and/or requirements for the 2008 Primary and/or General election, and any and all documents  
15 pertaining to any and all outreach activity relative to the 2008 Primary election.

16 **REQUEST NO. 17:** Any and all documents, including but not limited to notes  
17 and/or e-mails, between Ted Wheeler and Bill Farver about Plaintiff and/or her January 18,  
18 2008 letter to Chair Wheeler.

19 **REQUEST NO. 18:** Any and all documents, including but not limited to notes  
20 and/or e-mails, between Ted Wheeler and/or Bill Farver, and/or a member of their staff and  
21 Defendant Johnson, and/or a member of her staff, about Plaintiff's January 18, 2008 letter to  
22 Chair Wheeler.

1                   **REQUEST NO. 19:** Any and all documents, including but not limited to notes  
2 and/or e-mails, between Ted Wheeler and/or Bill Farver and/or anyone on their staff and  
3 Defendant Johnson and/or anyone on her staff, including but not limited to Jill Wolf, about  
4 any complaint or concern made or expressed about Defendant Johnson, and/or about the  
5 integrity of the conduct of elections, and/or about any perceived increased legal exposure  
6 caused by the way Defendant Johnson was causing elections to be conducted; and/or  
7 concerning Defendant Johnson's decision to stop providing outreach to voters with  
8 disabilities and the elderly.

10                   **REQUEST NO. 20:** Copies of the diaries and/or calendars of Ted Wheeler, Bill  
11 Farver, Defendant Johnson and/or Jill Wolf for the period 11/27/07 to 1/31/08.

12                   **REQUEST NO. 21:** Any document that Defendants believe supports any of its  
13 defenses.

15                   PROCEDURE

16                   A.     Produce all documents in your possession, custody or control. If you are  
17 unable to produce any document requested, state the location of the document and the name  
18 of the person or organization in possession of the document.

20                   B.     This request is a continuing request up to and through the trial of this case and  
21 shall require production of after-acquired documents, within ten (10) working days of their  
22 request, by Defendant until thirty (30) days before any date set for trial of this case, and shall  
23 require immediate production of after-acquired documents during the thirty (30) day period  
24 prior to trial.

26                   ////

1 DATED this 25<sup>th</sup> day of June, 2008.

2 **BUSSE & HUNT**

3   
4 

---

RICHARD C. BUSSE, OSB #74050  
5 Telephone: (503) 248-0504  
6 Facsimile: (503) 248-2131  
7 *rbusse@busseandhunt.com*  
8 Of Attorneys for Plaintiff Mary Shultz

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Page 6 - PL'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

BUSSE & HUNT  
Attorneys at Law  
521 AMERICAN BANK BUILDING  
621 S.W. MORRISON STREET  
PORTLAND, OREGON 97205  
ATTORNEYS FOR PLAINTIFF MARY SHULTZ

**Exhibit A**  
**Page 12 of 14**

F

Date: 07/08/2008

To: CECILIA JOHNSON, Director, Department of Community Services for  
Multnomah County

Attached is a true copy of the:

Summons and Complaint; Plaintiff's First Request for Production of  
Documents

Left With: Vicki Crane, Office Assistant

Address: 1600 S.E. 190th Avenue, Suite 224, Portland, OR 97233

Date Served: 07/07/2008

Time Served: 3:45 PM



176301

RECEIVED  
JUL 10 2008  
DCS DIRECTOR

## In the Circuit Court of the State of Oregon

For the County of MultnomahMARY SHULTZ,

Plaintiff(s).

vs.

MULTNOMAH COUNTY, a home rule county of the State of Oregon, and CECILIA JOHNSON, individually, and in her official capacity as Director of the Department of Community Services.

Defendant(s).

Case No.

0806-08892

SUMMONS

To

CECILIA JOHNSON, DirectorDepartment of Community Services for Multnomah County1600 SE 190<sup>th</sup> Avenue, Suite 224Portland, OR 97233-5910

Defendant

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

## NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal document called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 884-3783 or toll-free in Oregon at (800) 452-7636.

SIGNATURE OF ATTORNEY OR AUTHOR FOR PLAINTIFF

Richard C. Busse, OSB #74050

ATTORNEY'S / AUTHOR'S NAME (TYPED OR PRINTED)

BAR NO. (IF ANY)

621 S.W. Morrison Street, Suite 521

ADDRESS

Portland, Oregon 97205 (503) 248-0504

CITY STATE ZIP PHONE

(503)248-2131 rhusse@busseandhunt.com

FAX (IF ANY) ATTORNEY'S E-MAIL ADDRESS (IF ANY)

TRIAL ATTORNEY IF OTHER THAN ABOVE (TYPED OR PRINTED) BAR NO.

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

ATTORNEY(S) FOR PLAINTIFF(S)

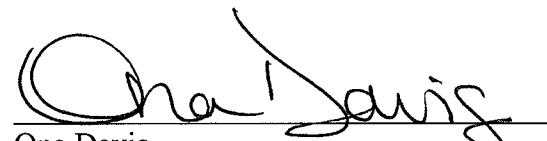
**CERTIFICATE OF SERVICE**

I hereby certify that on July 24, 2008, I served the foregoing **NOTICE OF REMOVAL** on:

Richard C. Busse  
Attorney at Law  
621 SW Morrison Street, Suite 521  
Portland, OR 97205

by the following method or methods as indicated:

- (  ) by **mailing** to said person(s) a true copy thereof, said copy placed in a sealed envelope, postage prepaid and addressed to said person(s) at the last known address for said person(s) as shown above, and deposited in the post office at Portland, Oregon, on the date set forth above.
- (  ) by causing a true copy thereof to be **hand delivered** to said person(s) at the last known address for said person(s) as shown above, on the date set forth above.
- (  ) by mailing via **certified mail, return receipt requested**, to said person(s) a true copy thereof, said copy placed in a sealed envelope, postage prepaid and addressed to said person(s) at the last known address for said person(s) as shown above, and deposited in the post office at Portland, Oregon, on the date set forth above.
- (  ) by **facsimile** to said person(s) a true copy thereof at the facsimile number shown above, which is the last known facsimile number for said person(s) on the date set forth above. A copy of the confirmation report is attached hereto.



Ona Davis  
Paralegal